

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

BARBARA PALOMINO ALONSO

Plaintiff

v.

**STONEMOR PUERTO RICO LLC
STONEMOR PUERTO RICO CEMETERY
AND FUNERAL, INC.
STONEMOR PUERTO RICO SUBSIDIARY,
LLC
STONEMOR GP, LLC**

Defendants

CIVIL NO: 19-1052

NOTICE OF REMOVAL

**TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§1331, 1367, 1441(a), and 1446, co-

Defendants Stonemor Puerto Rico LLC, Stonemor Puerto Rico Cemetery and Funeral, Inc., Stonemor Puerto Rico Subsidiary, LLC, Stonemor GP, LLC (collectively referred to as "StoneMor"), hereby remove this action from the Commonwealth of Puerto Rico Court of First Instance, Carolina Superior Part, to this District Court, based on the following:

1. THE COMMONWEALTH COURT ACTION

An action captioned *Barbara Palomino Alonso v. Stonemor Puerto Rico LLC; Stonemor Puerto Rico Cemetery and Funeral, Inc.; Stonemor Puerto Rico Subsidiary, LLC; Stonemor GP, LLC*, Civil No. CA2018CV03609, was commenced on or about December 21, 2018, and is pending before the Commonwealth of Puerto Rico Court of First Instance, Carolina Superior Part. In said action, Plaintiff Barbara Palomino Alonso alleges that StoneMor violated Title VII of the

Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §§ 2000e *et seq.*, as well as other Puerto Rico laws. Palomimo seeks damages for alleged emotional suffering and mental anguish, back pay, front pay and other remedies.

2. THE SERVICE OF THE COMPLAINT AND SUMMONS

Plaintiff served the Complaint and Summons upon StoneMor through its resident agent on December 21, 2018.¹ True and correct copies of all process, pleadings, and papers on file with the Clerk of the Commonwealth of Puerto Rico, including a copy of the Summons and Complaint, are collectively attached as **Exhibit A**. Certified English translations of all process, pleadings, and papers on file with the Clerk of the Commonwealth of Puerto Rico will be filed within the next 15 days, as requested in the request for extension of time to file certified translations filed today.

3. FEDERAL QUESTION JURISDICTION

This is an action for alleged violations of Title VII over which this Court has original jurisdiction pursuant to 28 U.S.C. §1331. Specifically, this action is removable pursuant to 28 U.S.C. §§ 1331 and 1441 because this is a civil action arising under a law of the United States – Title VII of the Civil Rights Act. Specifically, ¶15 of the Complaint provides that:

15. Entendemos las partes co-querelladas violaron el Título VII del Civil Rights Act, u otros estatutos y/o regulaciones federales.

¹ On January 8, 2019, Plaintiff moved the Commonwealth Court for an entry of default against StoneMor under Puerto Rico Act No. 2 of October 17, 1961, 32 P.R. Laws Tit. Ann. § 3118 *et seq.* On January 10, 2019, the Commonwealth Court noted an entry of default and set a hearing for January 29, 2019. The Commonwealth Court has not yet entered default judgment. However, since Puerto Rico Act No. 2 is a local procedural rule, it does not govern proceedings in federal court. Hoyos v. Telecorp Communs., Inc., 488 F.3d 1, 5 (1st Cir. 2007).

Exhibit A, Complaint at ¶15 (“*We understand that the co-defendant parties violated Title VII of the Civil [sic] Right Act and other federal law and/or regulations*”).

Palomino alleges that StoneMor supposedly discriminated and harassed her based on her national origin (Cuban) and religion (Catholic). She also alleges that StoneMor retaliated against her and that she was constructively discharged. Palomino bases her complaint on Title VII; Puerto Rico Act 100 of June 30, 1959, P.R. Laws Tit. Ann. 29 §§ 146 et seq; Puerto Rico Act 115 December 20, 1991, P.R. Laws Tit. Ann. 29 §§ 190 et seq; and Puerto Rico Act 80 of May 30, 1976, P.R. Laws Tit. Ann. 29 §§ 185a et seq.

4. REMOVAL OF THE COMMONWEALTH COURT ACTION

The federal removal statutes authorize removal of this action. Specifically, 28 U.S.C. § 1441(a) provides that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant … to the district court of the United States for the district and division embracing the place where such action is pending.”

5. VENUE IS PROPER

The United States District Court for the District of Puerto Rico is the judicial district embracing the place where the Commonwealth Court action was brought and is pending. This district is, therefore, the proper district court to which this case should be removed. *See* 28 U.S.C. §§ 1441(a) and 1446(a).

6. THE NOTICE OF REMOVAL IS TIMELY

Plaintiff served process on StoneMor on December 21, 2018. This removal is timely because 30 days have not transpired since the Plaintiff’s Complaint and Summons were served upon StoneMor. 28 U.S.C. § 1446(b).

7. NOTICE GIVEN TO THE COMMONWEALTH COURT

Pursuant to 28 U.S.C. §1446(a), with this Notice, StoneMor is simultaneously filing copies of all process, pleadings, motions, and orders existing on file in the Commonwealth Court in this removed action. **See Exhibit A.** Further, pursuant to 28 U.S.C. § 1446(d), StoneMor will promptly file with the Clerk of the Commonwealth of Puerto Rico Court of First Instance, Carolina Superior Part, a Notice of Filing of Notice of Removal and attach a true and correct copy of this Notice of Removal.

WHEREFORE, Stonemore hereby removes the action captioned *Barbara Palomino Alonso v. Stonemor Puerto Rico LLC, Stonemor Puerto Rico Cemetery and Funeral, Inc., Stonemor Puerto Rico Subsidiary, LLC, Stonemor GP, LLC* from the Commonwealth of Puerto Rico, Court of First Instance, Carolina Superior Part, to this District Court under the authority of 28 U.S.C. §§ 1331, 1441, and pursuant to the procedures provided in 28 U.S.C. § 1446.

We certify that we will send an exact copy of the present motion by e-mail and certified mail with return receipt to Attorney Alma Y. Durán Nieves, Duran Legal Consulting P.S.C., Cond. Altagracia 5C, #262 Calle Uruguay, San Juan, PR 00917, duranlegalconsulting@gmail.com.

In San Juan, Puerto Rico this 18th day of January, 2019.

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